



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/168977

PRELIMINARY RECITALS

Pursuant to a petition filed September 25, 2015, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on October 28, 2015, by telephone.

The issue for determination is whether the agency correctly determined petitioner's FS after transitional FS ended.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner lives with his wife and two children. In early 2015 petitioner obtained employment and his family became eligible on May 1, 2015 for transitional FS, which pays maximum FS for the household for five months. The five months ended effective September 30, 2015.

3. The agency determined FS for October, 2015 based upon the household's income and expenses. Petitioner's monthly income is \$1,462.09. Rent is \$745, and petitioner pays his own utilities. There are no child care expenses, and nobody in the household is elderly or disabled.
4. The agency determined that FS for October would be \$499. Initially the amount was determined to be \$457, but an error in the utility expense was discovered that increased the expense from \$119 to \$458, with FS increasing accordingly.

DISCUSSION

Transitional FS is a program that started March 1, 2004 following a change in federal legislation. See BHCE/BWP Operations Memo no. 04-7, dated February 25, 2004. When an FS household loses W-2 eligibility, the household is entitled to five months' additional FS without regard to new income from employment. FS Handbook, Appendix 5.1.1.2. When the five months ends, the transitional FS end, and the household must reapply or have the case reviewed. Handbook, App. 5.1.1.8.

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$168 per month. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FS Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FS Handbook, App. 4.6.7.

When petitioner's five months of transitional FS ended the agency had to redetermine FS using the calculation described above. Although petitioner has a number of monthly expenses, the FS calculation only allows deductions as listed above, and petitioner's household would qualify for only the earned income, standard, and shelter deductions. With those deductions, net household income on which FS are based is \$497.68. See FS Budgets provided at the hearing, page 5. A four-person household with that net income receives \$499 in FS. Handbook, App. 8.1.2. I conclude, therefore, that the agency correctly determined petitioner's FS allotment after the transitional FS ended.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's FS allotment to be \$499 after the transitional FS ended.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 30th day of October, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 30, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability